

**MINUTES OF THE REGULAR MEETING OF THE  
SAN MARCOS PLANNING AND ZONING COMMISSION  
COUNCIL CHAMBERS, CITY HALL  
September 8, 2009**

**1. Present**

**Commissioners:**

Sherwood Bishop, Chair  
Ryan Thomason, Vice-Chair (Absent)  
Bill De Soto  
Bill Taylor  
Curtis Seebeck  
Allen Shy  
Cecil Pounds  
Jim Stark  
Randy Bryan (Absent)

**City Staff:**

Chuck Swallow, Director of Development Services  
Matthew Lewis, Assistant Director of Development Services  
Francis Serna, Recording Secretary  
Phil Steed, Planner  
Sofia Nelson, Planner  
John Foreman, Planner  
Kathy Woodlee, Senior Engineer

**2. Call to Order and Announce a Quorum is Present.**

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday September 8, 2009 in the Council Chambers, City Hall Building of the City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

**3. Chairperson's Opening Remarks.**

Chair Bishop welcomed the audience.

**4. Executive Session in accordance with §551.071- Consultation with Attorney to seek legal counsel regarding policies and procedures of Conditional Use Permits for On-Site Alcoholic Beverage Consumption.**

**5. NOTE:** *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*

## **6. Citizen Comment Period**

John C. Foster, 211 N. Guadalupe Street stated that he was present as a representative of the Department of Geography Student Planning Organization. He said that the students will be attending the Planning Commission Meeting regularly to get hands on experience. He stated he is interested in increasing the dialogue between the students and the citizens of San Marcos. He introduced Cody Clark, President of the SPO and members present.

**7. CUP-09-17.** Hold a public hearing and consider a request by Dawna Figol, on behalf of Newton Gang's Getaway LLC, for an amendment of a Restricted TABC Conditional Use Permit to allow the on-premise consumption of liquor, beer, and wine at 100 W. Hopkins.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck, the Commission voted six (6) for and none (0) opposed, to approve the CUP with the conditions that the CUP shall be valid for three (3) years, provided standards are met, subject to the point system; and that the applicant meet all requirements for restaurant CUPs as stated in Ordinance #2005-19. The motion carried unanimously. Commissioner Shy recused himself from the discussion.

**8. CUP-09-19.** Hold a public hearing and consider a request by Freebird's Beverage LLC for a TABC Conditional Use Permit to allow the on-premise consumption of beer and wine at 909 State Highway 80, Suite C.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Stark the Commission voted six (6) for and one (1) opposed, to approve the CUP with the conditions that the CUP be valid for one (1) year, provided standards are met, subject to the point system. The motion carried.

**9. WPP2-09-0003.** Hold a public hearing and consider a request by The Schultz Group, Inc., on behalf of SureCap-Village TX Partners 1 LLP for approval of a qualified watershed protection plan for approximately 22.506 acres out of the J.M. Veramendi League Survey No. 1, Abstract No. 17, Hays County, known as the Purgatory Creek tract.

Chair Bishop opened the public hearing. Mike Short of The Schultz Group advised he was available to answer questions. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Shy, the Commission voted seven (7) for and none (0) opposed, to approve the request as submitted. The motion carried unanimously.

**10. PC-08-29(03a).** Consider a request by The Schultz Group, Inc., on behalf of SureCap-Village TX Partners 1 LLP for approval of the final plat of Lot 4, Hunters Crossing, consisting of approximately 22.457 acres of land along FM 2439 (Hunter Road) approximately 250 feet north of the intersection of Hunter Road and Wonder World Drive.

**MOTION:** Upon a motion made by Commissioner Shy and a second by Commissioner Pounds, the Commission voted seven (7) for and none (0) opposed, to approve the request with the conditions that the applicant change plat note #7 to read: a 6' hike and bike trail constructed of crushed granite with 6" concrete ribbon borders to be constructed at the time of development at the expense of the developer. The appropriate trail location is illustrated on this plat. The motion carried unanimously.

**11. LUA-09-07.** Hold a public hearing and consider a request by Travis Kelsey for a future land use map amendment from Low Density Residential (LDR) to Commercial (C) on 0.494 acres located at 515 Craddock Rd.

Chair Bishop opened the public hearing on both LUA-09-07 and ZC-09-10.

Sherry Bilson, 2006 Lisa Lane, President of Castle Forrest Neighborhood Association asked all citizens present to rise who are against the zoning and land use amendment. She explained that not all citizens opposed would speak. Mr. Bilson stated that the neighborhood is facing difficult challenges and that neighbors are having to sell their homes and investors are coming in and purchasing homes for the use of rental units. She explained that traffic is an issue and that more cars are being parked on the street. She added that the single family zoning is not being enforced and asked for assistance from the City. She felt that changing the land use and zoning would be an issue because there would be an issue with buffering the property to the adjacent single family homes. Ms. Bilson added that parking would also be an issue. She spoke in opposition to the request and asked the Commission to deny the request. She commented that they are trying to protect the neighborhood and maintain single family zoning.

Cassey Mitchell of 1603 Lancaster stated that her property is adjacent to the Kelsey property. She said that she is concerned with the welfare of her two young boys that play in her backyard and climb a tree that is near the property line. Ms. Mitchell added that she is concerned with value of homes going down with adjacent commercial properties. In addition, signage, trash, noise, and lighting will be a problem. She felt that the best use of the property is to remain single family and that upgrades be done to the home so that the home can sell. She spoke in opposition to the request.

Vaughn Thayer of 1804 Lancaster stated that he lives within 200/300 feet of the property. He said that he has met with Mr. Kelsey and Mr. Kelsey advised him that he has had the property for sale for approximately three years and has been unsuccessful. Mr. Thayer pointed out that the property is nice and in a good location with 35 mph speed zones. Mr. Thayer also felt that if the property is zoned to Commercial, there is not sufficient parking space, and the lighting would be an issue. If commercial/professional office there is no space for parking, lightening and space is not conducive. He spoke in opposition to the request.

Judith Aranow of 2001 Lancaster stated that they moved to San Marcos at end of December 2006 from Beaumont, Texas. She said that she chose San Marcos because she had seen it several time and it's a wonderful and delightful place. She felt that changing the zoning to commercial in the area would result in more commercial appearing on Craddock with heavy traffic. Ms. Aranow stated she would feel betrayed by the City of San Marcos if the zoning change was approved because she trusted her investment in San Marcos. She asked the Commission not to change the zoning and felt that most of people feel the same even if they are not available. Ms. Aranow commented that it is not fair that one person's desire to make money should have a disastrous affect on the whole neighborhood.

Travis Kelsey, owner of 515 Craddock, thanked the Commission for their service to the City and the staff for their assistance. He explained that the expansion of Craddock affected everyone, but him especially. Mr. Kelsey stated that the neighborhood concerns are his concerns as well. He explained that he originally requested Neighborhood Commercial but that there are more uses allowed, therefore he selected Office Professional. He added that he has the best wishes for the

neighborhood and for the community. Mr. Kelsey thanked the Commission for their consideration and advised that he was available to answer questions.

Thomasine Sparks of 1606 Lancaster stated that she and her husband moved to San Marcos and purchased a condo in which they lived for 17 years. They recently moved to Lancaster because the condo was taken over by student residents. She stated that the neighborhood is well maintained, stable, nice and quiet. She added that they have spent thousands of dollars on landscaping and requested that the zoning not be approved.

Camille Phillips, resident of Franklin Drive which is located across from 515 Craddock. She pointed out that the economy is stressed and asked the Commission to please not stress the neighborhood. Ms. Phillips stated that the neighborhood property values are important. She added that if property owners sell their property, they would sell for less because they abut to a commercial property. Ms. Phillips mentioned that there are few home owner associations and that neighborhoods should be protected. She asked the Commission not to rezone 515 Craddock and commented that the property was greatly improved with the construction of the sidewalks.

Gayle Ramsey, 1610 Lancaster stated she is located barely outside of 200' radius of 515 Craddock. Ms. Ramsey stated that Mr. Kelsey met with the neighborhood and explained that he needs to sell his property so that he can move to another home because of new business in Austin. She pointed out that it is not fair to penalize property values for the neighborhood because one property owner wants to make a profit. She noted that the city paid Mr. Kelsey for the several feet that were taken from his property for the Craddock extension. She mentioned that the sidewalk is a nice improvement to Mr. Kelsey's property. Ms. Ramsey also mentioned that Mr. Kelsey has not made improvements to his property. Ms. Ramsey spoke in opposition to the request.

Margaret Ennis, 1109 Advance, stated she understood that the properties are families and as city grows other properties will change to something other than family residential. She commented that she would not like to live on a four lane road with children. Ms. Ennis spoke in support of the request.

There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Stark and a second by Commissioner Seebeck the Commission voted three (3) for and four (4) opposed, to approve the request. The motion to approve failed.

**12. ZC-09-10.** Hold a public hearing and consider a request by Travis Kelsey for a zoning change from Single Family (SF-6) to Office Professional (OP) on 0.494 acres located at 515 Craddock Rd.

No action taken on Zoning Change due to the outcome of LUA-09-07.

**13. LUA-09-11.** Hold a public hearing and consider a request by Steve Henry, on behalf of Sidney Kyle for a Future Land Use Map Amendment from Low Density Residential (LDR) to High Density Residential (HDR) on .7689 acres located at 221 Ramsay Street.

Chair Bishop opened the public hearing for LUA-09-11 and ZC-09-14. Ed Theriot, ETR Consulting stated he is representing Steve Henry. He explained that Mr. Henry has requested a rezoning to Multi-Family in an area mostly surrounded by multi-family zoning designations. Mr. Theriot mentioned that the applicant is aware of the waste water situation and timelines. He explained that the City has initiated a project to assist with adequacy. Mr. Theriot stated that the proposed rezoning is consistent with Horizons Master Plan Policies and is an area that

encourages walk ability, bike trails and does not encourage high density in a residential area. There were no additional citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Taylor the Commission voted seven (7) for and none (0) opposed, to approve the request. The motion carried unanimously.

**14. ZC-09-14.** Hold a public hearing and consider a request by Steve Henry, on behalf of Sidney Kyle for a Zoning Change from Single Family Residential (SF-6) to Multi-Family (MF-24) on .7689 acres located at 221 Ramsay Street.

**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Taylor the Commission voted seven (7) for and none (0) opposed, to approve the request. The motion carried unanimously.

There was a five minute break

**15. LUA-09-12.** Hold a public hearing and consider a request Lee A. Lyon, for a Future Land Use Map Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) on 0.2459 acres located at 905 & 907 Allen Street.

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck the Commission voted seven (7) for and none (0) opposed, to approve the request as submitted. The motion carried unanimously.

**16. ZC-09-15.** Hold a public hearing and consider a request by Lee A. Lyon for a Zoning Change from Duplex Residential (D) to Townhouse Residential District (TH) on 0.2459 acres located at 905 & 907 Allen Street

Chair Bishop opened the public hearing. There were no citizen comments and the public hearing was closed.

**MOTION:** Upon a motion made by Commissioner Taylor and a second by Commissioner Seebeck the Commission voted seven (7) for and none (0) opposed, to approve the request. The motion carried unanimously.

#### **17. Discussion Items.**

##### **Planning Report**

Matthew Lewis suggested that the Planning Commission retreat be rescheduled to a later date after the new Board appointments are selected. The Commission agreed. He added that staff is working on the Request for Proposal on Form Based Codes as directed by the City Council.

##### **Commissioners' Report**

Commissioner Seebeck reported that any email provided to the City is public record.

#### **18. Consider approval of the minutes from the Regular Meeting of August 11, 2009.**

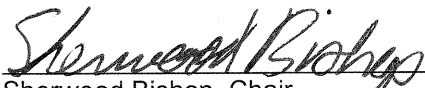
**MOTION:** Upon a motion made by Commissioner Seebeck and a second by Commissioner Shy, the Commission voted five (5) for, zero (0) opposed, and two (2) abstained to approve the Regular Meeting Minutes of August 11, 2009 with corrections. The motion carried. Commissioners Taylor and Pounds abstained.

**19. Questions and answers from the Press and Public.**

There were no comments from the press and public.

**20. Adjournment**

Chair Bishop adjourned the Planning and Zoning Commission at 8:16 p.m. on Tuesday, September 11, 2009.


  
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Sherwood Bishop, Chair

  
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Jim Stark, Commissioner

  
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Allen Shy, Commissioner

  
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Bill DeSoto, Commissioner

  
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Cecil Pounds, Commissioner

  
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Bill Taylor, Commissioner

  
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Curtis Seebeck, Commissioner

ATTEST:  
  
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Francis Serna, Recording Secretary